

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/700,770	YANG ET AL.	
	Examiner Christopher H. Yaen	Art Unit 1642	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 2/28/2005.

2.  The allowed claim(s) is/are 9-18.

3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.

4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 10/27/04
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

*Jeffrey Siew*  
JEFFREY SIEW  
SUPERVISORY PATENT EXAMINER  
5/17/05

Christopher Yaen  
Art Unit 1642

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kathleen Tyrrell on 5/5/2005.

The application has been amended as follows:

Claim 9 (currently amended): A method for detecting the presence of lung cancer in a patient comprising:

(a) measuring levels of a polynucleotide comprising SEQ ID NO: 2, 4, 5 or 6 in a sample of cells, tissue or bodily fluid obtained from the patient; and

(b) comparing the measured levels of the polynucleotide in the patient with levels of the polynucleotide in a sample of cells, tissue or bodily fluid obtained from a normal control, wherein an increase in levels of the polynucleotide in the patient as compared to levels of the polynucleotide in the normal control is associated with the presence of lung cancer.

Claim 10 (previously presented): The method of claim 9 wherein the polynucleotide comprises SEQ ID NO:2.

Claim 11 (previously presented): The method of claim 9 wherein the polynucleotide comprises SEQ ID NO:4.

Claim 12 (previously presented); The method of claim 9 wherein the polynucleotide comprises SEQ ID NO:5.

Claim 13 (previously presented); The method of claim 9 wherein the polynucleotide comprises SEQ ID NO:6

Claim 14 (previously presented); The method of claim 9 wherein the sample is cells.

Claim 15 (previously presented) The method of claim 9 wherein the sample is a tissue.

Claim 16 (previously presented); The method of claim 9 wherein the sample is a bodily fluid.

Claim 17 (previously presented); The method of claim 16 wherein the bodily fluid sample is selected from the group comprising blood, urine, saliva and bodily secretions.

Claim 18 (previously presented); The method of claim 17 wherein the blood sample is selected from the group comprising whole blood, plasma and serum.

**All rejections and or objections are withdrawn in view of the applicant's amendments and arguments thereto as set forth in a paper filed 2/28/2005.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher H. Yaen whose telephone number is 571-272-0838. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Yaen  
Art Unit 1642  
May 11, 2005

*Jeffrey Siew*  
JEFFREY SIEW  
SUPERVISORY PATENT EXAMINER  
5/12/05